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IN THE

Supreme Court of the United States

October Term, 1975

No. 75-1523

MARLENE KARR,

Petitioner

-v-

STATE OF OHIO,

Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF OHIO

OPINIONS BELOW

The opinions below are correctly set forth in the petition.

JURISDICTION

The jurisdictional requisites are adequately set forth in the petition.

QUESTIONS PRESENTED FOR REVIEW

WHETHER THE DECISION OF THE SUPREME COURT OF OHIO APPLIED FEDERAL CONSTITUTIONAL LAW AS INTERPRETED BY THIS COURT REGARDING REQUIREMENTS FOR SEARCH WARRANTS.

STATEMENT OF THE CASE

The Statement of the Case is adequately set forth in the petition.

REASON FOR DENYING WRIT

In the decision below, the Supreme Court of Ohio acknowledged that as a reviewing court, the court was governed by the decisions of this Court in applying federal constitutional law. While petitioner urges that the decision of the Supreme Court of Ohio conflicts with decisions of this Court, an examination of the ruling below clearly shows that the court applied the tests of *Aquilar* v. *Texas* (1964), 378 U. S. 108; *Spinelli* v. *United States* (1969), 393 U. S. 410 and *United States* v. *Ventresca* (1965), 380 U. S. 102 in ruling upon the issue of probable cause. While petitioner urges that the decision of the Franklin County Court of Appeals below correctly interpreted the law, that decision was based upon the misapprehension that the decisions of the Supreme Court of Ohio had adopted a more stringent test for probable cause than that set forth in the decision of this Court. Upon review, the Supreme Court of Ohio correctly noted that the former decisions of that Court did not adopt a more stringent test for affidavits than that set forth in *Aguilar*, *supra.*, and *Spinelli*, *supra.*, and indeed, could not have done so in applying federal constitutional law. *Oregon* v. *Hass* (1975), 420 U. S. 714.

CONCLUSION

It is respectfully submitted that the Supreme Court of Ohio correctly reviewed the affidavit in question in

light of the decisions of this Court and that the Writ of Certiorari should not issue.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to Rule 33(3)(6) of the Rules of Practice of the Supreme Court, the undersigned, a member of the bar of the Supreme Court of the United States, hereby certifies that three (3) copies of the foregoing brief in opposition to the petition for a writ of certiorari were served upon James V. Rose, Esquire, counsel for the petitioner, by mailing same to his office, 50 West Broad Street, Columbus, Ohio 43215, by United States Mail, postage prepaid, this 19th day of May, 1976. I further certify that all parties required to be served have been served.

Alan C. Travis

ALAN C. TRAVIS
Counsel for Respondent